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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,280	01/27/2005	Takako Araki	050042	7575
23850 7590 11/26/2008 KRATZ, QUINTOS & HANSON, LLP 1420 K Street, N.W. Suite 400 WASHINGTON, DC 20005				
EXAMINER NGUYEN, LINH THI				
ART UNIT		PAPER NUMBER		
2627				
MAIL DATE		DELIVERY MODE		
11/26/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/520,280

Applicant(s)

ARAKI, TAKAKO

Examiner

LINH T. NGUYEN

Art Unit

2627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Terminal Disclaimer

The terminal disclaimer filed on 8/14/08 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of application 10/466327 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant Admitted Prior Art (AAPA) in view of Matsumoto (EP Patent Number 0905685).

In regards to claim 1, AAPA discloses a disk playback device capable of reproducing signals from a disk by irradiating the disk with a laser beam from an optical head, the disk playback device comprising a laser drive circuit capable of feeding a drive signal to the optical head and adjusting a power of the laser beam irradiated by the optical head and a control circuit for controlling operation of the laser drive circuit, wherein the control circuit comprises reproduction power optimizing means for repeatedly optimizing the power of the laser beam for signal reproduction, and the reproduction power optimizing means (Paragraph [0005]) comprises: evaluation data detecting means for detecting

evaluation data representing quality of a signal reproduction state; retrieving means for retrieving one boundary value of two boundary values of a reproduction power wherein the evaluation data is a prescribed value or in the vicinity of the prescribed value; and optimum reproduction power calculating means for calculating an optimum reproduction power based on the one retrieved boundary value retrieved (Paragraph [0006]). However, AAPA does not disclose a playback device wherein the retrieving means retrieves a new boundary value based on a boundary value obtained by a previous optimizing processing and not based solely on current power reproduction level.

In the same field of endeavor, Matsumoto discloses a playback device wherein the retrieving means retrieves a new boundary value based on a boundary value obtained by a previous optimizing processing and not based solely on current power reproduction level (Fig. 13 and Paragraph [0069]-[0070]). At the time of the invention it would have been obvious to a person of ordinary skill in the art to modify the playback device of AAPA to have a retrieves a new boundary value based on a boundary value obtained by a previous optimizing processing as suggested by Matsumoto. The motivation for doing so would have been sufficiently and quickly find the optimum reproducing power.

In regards to claim 2, Matsumoto discloses a disk playback device according to claim 1, wherein the retrieving means retrieves a lower boundary value having a smaller value from the two boundary values (Paragraph [0070]), and the optimum reproduction power calculating means adds a predetermined value to the lower boundary value to

thereby determine the optimum reproduction power (Paragraph [0095]). The motivation is the same as claim 1 above.

In regards to claims 1/3 and 2/3, Matsumoto discloses a disk playback device, wherein the evaluation data is a frequency of occurrence of bit errors included in a reproduced signal (Paragraph [0075]). The motivation is the same as claim 1 above.

In regards to claims 1/4 and 2/4, Matsumoto discloses a disk playback device comprises temperature detecting means (Fig. 1, element 8) for detecting a temperature of the disk, and the reproduction power optimizing means optimizes the reproduction power whenever the temperature of the disk varies by a predetermined temperature (Figs. 1 and 13, steps 106 to 110). The motivation is the same as claim 1 above.

In regards to claim 5, Matsumoto discloses a disk playback device according to claim 3, wherein the disk playback device comprises temperature detecting means for detecting a temperature of the disk, and the reproduction power optimizing means optimizes the reproduction power whenever the temperature of the disk varies by a predetermined temperature (Fig. 13, and Paragraphs [0069]-[0070]). The motivation is the same as claim 1 above.

Response to Arguments

Applicant's arguments, see page 6, filed 8/14/08, with respect to the rejection(s) of claim(s) 1-4 under Nanba have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of AAPA and Matsumoto.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LINH T. NGUYEN whose telephone number is (571)272-5513. The examiner can normally be reached on 10:00am-7:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wayne Young can be reached on 571-272-7582. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LN
November 19, 2008

/Wayne Young/
Supervisory Patent Examiner, Art Unit 2627